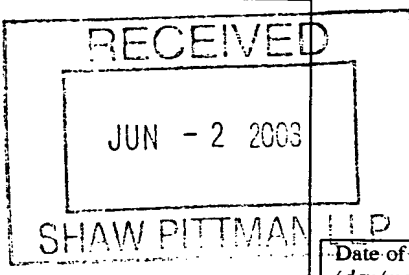


PATENT COOPERATION TREATY

From, the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
LAWRENCE J. GOTTS
SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102-4859



PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference XMS-102-PCT		Date of Mailing (day/month/year) 29 MAY 2003 <i>6/28/03</i> <i>7/29/03</i>
International application No. PCT/US02/17120		REPLY DUE within 2 months/days from the above date of mailing
International filing date (day/month/year) 31 May 2002 (31.05.2002)	Priority date (day/month/year) 31 May 2001 (31.05.2001)	
International Patent Classification (IPC) or both national classification and IPC IPC(7): H04H 9/00, 7/00; G06F 17/60 and US Cl.: 455/2.01, 3.06; 705/14, 1.34		
Applicant XM SATELLITE RADIO		

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☒ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 30 September 2003 (30.09.2003)

Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230	Authorized officer Marcos L Torres Telephone No. 703-305-4700 <i>[Signature]</i>
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WRITTEN OPINION

International application No.

PCT/US02/17120

I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 - pages 1-30 _____, as originally filed
 - pages NONE _____, filed with the demand
 - pages NONE _____, filed with the letter of _____
- ☒ the claims:
 - pages 31-41 _____, as originally filed
 - pages NONE _____, as amended (together with any statement) under Article 19
 - pages NONE _____, filed with the demand
 - pages NONE _____, filed with the letter of _____
- ☒ the drawings:
 - pages 1-5 _____, as originally filed
 - pages NONE _____, filed with the demand
 - pages NONE _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 - pages NONE _____, as originally filed
 - pages NONE _____, filed with the demand
 - pages NONE _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE _____
- ☐ the claims, Nos. NONE _____
- ☐ the drawings, sheets/fig NONE _____

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.

PCT/US02/17120

IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☒ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☒ all parts.
- ☐ the parts relating to claims Nos. ____.

WRITTEN OPINIONInternational application No.
PCT/US02/17120**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-72</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-72</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-72</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Please See Continuation Sheet

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

V. 2. Citations and Explanations:

Claims 1-19 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a method for charging advertising fees, comprising the steps of: broadcasting an advertisement for a sponsor in a broadcast, wherein the broadcast includes an identifier that uniquely identifies the advertisement and at least one of the sponsor of the advertisement and a product advertised in the advertisement; receiving a quantity of electronic indications from persons who observe the advertisement, wherein the indications indicate interest in the product, and wherein the indications reference the identifier; and charging the sponsor a fee for broadcasting the advertisement, wherein the fee is based on the quantity of indications that are received.

Claims 20-22 and 24 lack inventive step under PCT Article 33(3) as being obvious over Tanaka. As to claim 20, Tanaka discloses a radio listener feedback system (see abstract) with a select button (see fig. 1, item 1) and recording on a media link a program identifier associated to the programming segment (see par. 0084-0086). Tanaka also discloses a central hub communicating and storing information associated the program identifier (see par. 0097).

Claims 23 and 26 lack inventive step under PCT Article 33(3) as being obvious over Tanaka in view of Fougnes. Regarding claim 23, Tanaka discloses transmitting a program identifier (see par. 0097). Fougnes discloses sending an identifier wirelessly (see col. 15, lines 58-65). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to send information wirelessly for the simple purpose of convenience or the use of repeaters for enhanced coverage.

Claim 25 lacks inventive step under PCT Article 33(3) as being obvious over Tanaka in view of Campanella. Tanaka discloses broadcast programming (see par. 0019). Campanella discloses satellite broadcast programming (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a satellite to broadcast for an enhanced coverage.

Claim 27 lacks inventive step under PCT Article 33(3) as being obvious over Tanaka. Regarding claim 27, Tanaka discloses a computer being a central hub (see par. 0097). It is a common and well-known technique to use a computer to connect to the Internet, web sites and run a web site from a computer. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a computer as a web site.

Claims 28-32, 34 and 36-40, 44-48, 51, 53-56, 59-60, 62-64 and 70 lack inventive step under PCT Article 33(3) as being obvious over Logan. Logan discloses the system for mobile commerce in a digital radio broadcasting system with a content provider (see col. 1, line 50 - col. 2, line 10) with a plurality of radios receiving a separated segment associated with an identifier (see col. 7, lines 1-

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

13), from a satellite and high power transmitter (see col. 7, lines 44-49), low power transmitter (see col. 7, lines 49-53), voice recognition (see col. 4, lines 41-46). Logan also discloses a select button (see col. 5, lines 26-29), non-removable memory (see col. 4, lines 33-41), a computer connected to the internet (see col. 5, lines 26-34), a central hub (see col. 5, lines 47-59), a scroll device and displaying program identifier (see col. 12, lines 19-57). It is a common and well-known technique to increase the number of satellite in order to increase coverage area or time. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use the number of satellites needed in order to have the coverage needed.

Claims 32-33 and 35, 42-43, 57, 65 lack inventive step under PCT Article 33(3) as being obvious over Logan in view of Tanaka. Logan discloses storing a program identifier (see col. 28, lines 26-30) and transmitting via a wireless network (see col. 7, lines 44-63). Tanaka discloses a select button (see fig. 1, item 1-4) and physically connecting temporarily a media link to the radio (see par. 0097). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add a select button to the Logan system for the simple purpose of an easier operation.

Claims 41 and 72 lack inventive step under PCT Article 33(3) as being obvious over Logan in view of Campanella. Logan discloses broadcast programming (see abstract). Campanella discloses satellite broadcast programming (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a satellite to broadcast for an enhanced coverage.

Claims 49-40 and 52 lack inventive step under PCT Article 33(3) as being obvious over Logan. Logan discloses a computer mounted in car (see col. 7, lines 49-51) and a desktop computer (see col. 4, lines 33-34). It is a common and well-known technique to use a desktop computer in a house and business. Also is a common and well-known technique to add removable devices to the car. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to place the computer in the desired location for the simple purpose of convenience.

Claim 58 lacks inventive step under PCT Article 33(3) as being obvious over Logan. Logan discloses wireless communication (see col. 7, lines 44-49). The use of wireless transceivers are a common and well-known technique. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a wireless transceiver for the simple purpose of easier portability.

Claim 61 lacks inventive step under PCT Article 33(3) as being obvious over Logan in view of Baltus. Logan discloses a radio player system (see abstract). Baltus discloses a radio with a gps (see col. 1, lines 8-17). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this feature to the Logan system for an enhanced multimedia programation.

Claims 66-69 lack inventive step under PCT Article 33(3) as being obvious over Logan. Logan discloses a content provider (see col. 1, line 50 - col. 2, line 10), a satellite (see col. 7, lines 44-49), a plurality of radios receiving a separated segment associated with an identifier (see col. 7, lines 1-13), and a computer functioning as a player (see col. 4, lines 28-35). It is common and well-known that computer have printer ports and communicate with printers. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to connect a computer to a printer for the simple purpose of having the ability to print.

Claim 71 lacks inventive step under PCT Article 33(3) as being obvious over Logan in view of Reams. Logan discloses using a computer as a player (see col. 4, lines 28-35). Reams discloses a radio player with means to print a coupon (see col. 2, lines 5-10). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for an enhanced marketing system.

----- NEW CITATIONS -----

EP 0986200 A2 (TANAKA et al) 15 March 2000, all
US 6,007,562 (GOLDMAN) 23 May 2000, all
US 6,199,076 (LOGAN et al) 06 March 2001, all
US 6,157,823 (FOUGNIES et al) 05 December 2000, all
US 5,907,793 (REAMS) 25 May 1999, all
US 5,887,247 (BALTUS et al) 23 March 1999, all
US 6,201,798 B1 (CAMPANELLA et al) 13 March 2001